

Amendment
U.S. Patent Application No. 09/761,561

REMARKS/ARGUMENTS

The amendments to the claims are editorial in nature or further define what the applicants regard as the invention. Full support for the amendment can be found throughout the present application, for instance, at pages 1, 6, 10-12, and 22 of the present application. Accordingly, no questions of new matter should arise and entry of the amendment is respectfully requested.

With respect to claim 1 which now recites, in part, that the complex is a solid in the formulation, the applicants, in the specification and in Fig. 1 of the present application, clearly state that a differential scanning calorimetry (DSC) spectrum is used to provide information about the structure of the complex. One skilled in the art would know that a DSC spectrum is used for analyzing solids and not liquids. Therefore, one skilled in the art would conclude that the complex is in a solid state. Furthermore, the specification, at page 11, line 21 through page 17, line 5, clearly illustrates that the complex is in a solid state, and more specifically the complex is in a solid state in the formulation.

Poddymov et al. does not teach or suggest a formulation having a disinfectant and a complex as described in claim 1. Poddymov et al. does not even relate to microbicidal formulations. The rejection should be withdrawn for this reason alone.

Further, with respect to Poddymov et al., given that in Poddymov et al. the complex formation in methionine was measured at a pH of 4, one skilled in the art, by reading Poddymov et al., would form a composition at a pH of 4 or above. Thus, Poddymov et al. does not teach or suggest the claimed invention, wherein precipitation complexation occurs at a pH of 2 or less.

Given that Poddymov et al. states that methionine compositions decrease significantly below a pH of 3, and the fact that the formula of Poddymov et al. shows that the glycine and aspartic acid only form complexes in basic solutions at a pH greater than 6.5, one skilled in the art,

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by reading these limitations, would not go below a pH of 3. Thus, Poddymov et al. teaches away from claim 1 of the present application, which now recites, in part, that the amino acid is complexed to M at a pH of 2 or less.

Sanchez et al. does not teach or suggest a formulation having a disinfectant and a complex as described in claim 1. Sanchez et al. does not even relate to microbicidal formulations. The rejection should be withdrawn for this reason alone.

With respect to Sanchez et al., Sanchez et al. relates to only determining the thermodynamic stability constants of Ag with phenylalanine, alanine, and serine. The protons of Sanchez et al. are liberated when a metal ion replaces hydrogen ions in the ligand. However, if very stable complexes are formed, the replacement of protons will be complete so that pH measurements cannot yield accurate values of stability constants. Thus, the complexes in Sanchez et al. differ from the claimed invention because the proton in Sanchez et al. is replaced by a metal.

Accordingly, the claims of the present application are in condition for allowance.

CONCLUSION

If there are any other fees due in connection with the filing of this response, please charge the fees to Deposit Account No. 50-0925. If a fee is required for an extension of time under 37

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C.F.R. § 1.136 not accounted for above, such extension is requested and should also be charged to said Deposit Account.

Respectfully submitted,



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